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SENATE BILL 395

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph A. Fidel

AN ACT

RELATING TO MILITARY AFFAIRS; MODIFYING REQUIREMENTS FOR  
APPOINTMENT OF ADJUTANT GENERAL; MODIFYING PROVISIONS FOR  
DISCHARGE OF A COMMISSIONED OR WARRANT OFFICER; AMENDING  
SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 20-1-5 NMSA 1978 (being Laws 1987,  
Chapter 318, Section 5) is amended to read:

"20-1-5. ADJUTANT GENERAL--APPOINTMENT AND DUTIES.-- In  
case of a vacancy, the governor shall appoint as the adjutant  
general of New Mexico for a term of five years an officer who  
for ~~[three]~~ five years immediately preceding his appointment as  
the adjutant general of New Mexico has been federally  
recognized as an officer in the national guard of New Mexico  
and who during his service in the national guard of New Mexico

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1 has received federal recognition in the rank of major or  
2 higher. The adjutant general shall not be removed from office  
3 during the term for which appointed, except for cause to be  
4 determined by a court-martial or efficiency board legally  
5 convened for that purpose in the manner prescribed by the  
6 national guard regulations of the United States department of  
7 defense. The adjutant general shall have the military grade of  
8 major general and shall receive the same pay and allowances as  
9 is prescribed by federal law and regulations for members of the  
10 active military in the grade of major general, unless a  
11 different rate of pay and allowances is specified in the annual  
12 appropriations bill. The adjutant general shall:

13 A. prepare and publish, by order of the governor,  
14 such orders, rules and regulations, consistent with law, as are  
15 necessary to maintain the military forces in a state of  
16 efficiency in conformity with the needs of the state and the  
17 federal defense requirements;

18 B. supervise the receipt, preservation, repair,  
19 distribution, issue and collection of all arms and military  
20 equipment of the state;

21 C. supervise all personnel, organizations,  
22 facilities, equipment, supplies and funds of the military  
23 forces;

24 D. maintain records of all members of the military  
25 forces and keep on file in his offices copies of all orders,

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underscored material = new  
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1 reports, regulations and communications received and issued by  
2 him;

3 E. perform such other duties as may be required of  
4 him by the commander-in-chief; and

5 F. have a seal of office."

6 Section 2. Section 20-4-1 NMSA 1978 (being Laws 1987,  
7 Chapter 318, Section 18) is amended to read:

8 "20-4-1. STANDARDS FOR APPOINTMENT, PROMOTION,  
9 TERMINATION. --

10 A. The standards for commissioning, warranting and  
11 enlisting; for promotion and demotion in grade or rank; and for  
12 assignment, transfer, discharge and retirement of members of  
13 the national guard shall be established by regulations  
14 promulgated by the adjutant general. Such regulations shall  
15 substantially conform these requirements to the laws and  
16 regulations of the United States relating to the national guard  
17 of the United States.

18 B. The regulations concerning discharge shall  
19 include a provision that a commissioned or warrant officer can  
20 be discharged only:

21 (1) upon removal of federal recognition by the  
22 national guard bureau;

23 (2) upon transfer by request of the officer to  
24 another military reserve component of the United States;

25 (3) upon resignation duly accepted by the

1 governor;

2 (4) for absence without leave for more than  
3 ninety days;

4 (5) upon recommendation of a federal  
5 recognition board or other state efficiency board approved by  
6 the governor; ~~[or]~~

7 (6) after a court-martial imposing a sentence  
8 of dismissal, if the sentence of dismissal is approved by the  
9 governor; or

10 (7) upon removal of state recognition by the  
11 governor.

12 C. Discharge certificates shall reflect the  
13 character of the member's service. They shall conform as  
14 closely as practicable to discharge certificates of the United  
15 States military forces. "

16 Section 3. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2003.

18 Section 4. EMERGENCY.--It is necessary for the public  
19 peace, health and safety that this act take effect immediately.